

Version: 20170609

## 1. Customer Agreement with Company

1.1 This General Terms will be deemed an integral part hereof for all purposes, apply to a variety of Services offered by Company and shall govern the relationship of the Parties. When Customer subscribes one or more Services from Company, Customer enters into an Agreement with Company specified in the Registration Form. Additional terms and conditions apply to each of these Services are reflected in a separate Specific Terms and Conditions ("Specific Terms"). This General Terms will be effective on the Effective Date.

1.2 Company is providing the Services to Customer on an "as is" basis, and the availability and speed may vary depending on coverage, location, devices used, network traffic and/or the type of data transmitted. Services is provided without any warranty of any kind (whether express or implied) and Company's liability to Customer in connection with the use of the Services is very limited. It is therefore important that Customer reads the entire General Terms carefully before subscribing and/or using Company's Services. Customer understands and agrees that Company will treat that Customer is agreeing to be bound by this General Terms from that point onwards.

1.3 Company may make changes to this General Terms from time to time and will upload the revised General Terms on its Website. Customer is advised to check the Website for the latest updated version on a regular basis. When such changes are made, it will be effective immediately upon posting. Customer understands and agrees that if Customer use the Services and/or the subscription of Services continues after the date on which the terms of the General Terms has changed, Company will treat Customer use of our Services and/or the subscription of Services continues, as acceptance of the amended General Terms.

1.4 This General Terms shall embody the entire agreement of the Parties in relation to the Services and supersedes all prior understandings, communications and representations between the Parties, whether oral or written.

## 2. Definitions & Interpretations

2.1 In this General Terms, the following words and expressions shall have the following meanings:-

"Act" collectively means the Personal Data Protection Act 2010, General Consumer Code of Practice for the Communications and Multimedia Industry Malaysia, Communication and Multimedia Act 1998 including all guidelines, rules and, regulations and subsequent amendments.

"Accessory" means packaging box, power adapter, quick installation guide, cable, cord, wires, battery, brackets and/or any other accessory as may be provided by Company to Customer.

"Affiliate" means any person or entity controlling, controlled by, or under common control Company. "Control" means the ownership of the equity shares carrying fifty percent (50%) or more of the votes exercisable at a general meeting (or its equivalent) of a company.

"Agreement" means (a) Registration Form; (b) Specific Terms applicable to each Services Customer is subscribing (c) Fair Usage Policy; (d) Privacy Statement; (e) other terms and conditions applicable to any other services subscribed by Customer as may be specified in the Website; and (f) any annexes, appendices, appendices, exhibits, supplemental and/or substitution.

"BCI Database" means the the common telecommunication operators' defaulters' database of black-listed customer information.

"Charges" collectively means any upfront payment, Deposit, Monthly Fee, Company Equipment Charges, Early Termination Penalty, Third Party Charges, and/or any other money payable to Company as may be specified in the Registration Form.

"Company" means webe digital sdn bhd .

"Company Equipment" means Accessory and Device.

"Credit Rating" means information about your credit worthiness, credit standing, credit history or credit capacity.

"Credit Reporting Agency" means a person who carries on a credit reporting business and is registered under the Credit Reporting Agencies Act 2010.

"Customer/You" means customer information as stated in the Registration Form.

"Deposit" means a sum equivalent to an amount of the Monthly Fee payable by way of a deposit and as security for the due observance and performance by Customer of the provisions of the General Terms, as may be specified in the Registration Form and/or the Specific Terms.

"Device" means any modem, IP phone, analogue telephone adaptor, media gateway, deck phone, auto dialer and/or other telecommunication devices provided by Company to Customer.

"Company Equipment Charges" means the agreed penalty charges payable by Customer to the Company for failing to return the Company Equipment to the Company. .

"Early Termination Penalty" means the agreed liquidated damages payable by Customer to Company as a result of

terminating this General Terms during the Term but before the expiry of the Contract Period.

"Effective Date" means the (a) the date Customer duly signed and submitted the Registration Form and (b) the date on which the Services is made ready and made available, and activated for Customer's use.

"Fair Usage Policy" means the acceptable level of conduct, as may be specified in <http://www.p1.com.my/common/terms.aspx>.

"Intellectual Property" or "Intellectual Property Rights" means any and all vested, contingent and future intellectual property rights of whatever nature including without limitation patents, registered designs, trademarks and service marks (whether registered or not), copyright, database rights, design rights and all similar property rights in any part of the world including those subsisting in inventions, concept, drawings, designs, computer programs, confidential information, goodwill and applications for protection of any of the above rights and all accrued rights of action and all other rights of whatever nature in relation to all media and throughout the world by virtue of or pursuant to any of the laws in force in each and every part of the world.

"Monthly Fee" means recurring monthly fees payable for the subscription and/or use of the Services.

"Parties" collectively means Company and Customer.

"Party" means either Company or Customer.

"Payment Term" means the time frame or grace period allowed by the Company to the Customer to make payment of the Charges to the Company, as may be specified in the invoice.

"Personal Data" means Customer's information pursuant to Personal Data Protection Act 2010.

"Privacy Statement" means a statement that discloses the ways the Company gather, use, disclose and manage the Personal Data and how Customer can opt-out, change, update and access Customer's Personal Data <http://www.p1.com.my/common/terms.aspx>.

"Registration Form" means the form prescribed by Company for the subscription of Services.

"Services" means all telecommunication services provided by Company, including but not limited to, voice, data, and any other services made available from time to time.

"Software" means any computer program or machine readable/usable instructions, and related data forming part of the Software, as well as any upgrade(s), update(s) or new release of the Software or any part thereof.

"Term" means the total term which Customer subscribes for, including the Contract Period and where the context so permits shall include the Renewal Term.

"Third Party Charges" means any fees payable to third party, as may be specified in the Agreement.

"Website" means [www.p1.com.my](http://www.p1.com.my).

## 2.2 Interpretations

In this General Terms, unless there is something in the subject or context inconsistent with such construction, or unless it is otherwise expressly provided:-

- (a) words denoting the masculine gender shall include the feminine or neuter gender and vice versa;
- (b) words denoting singular number shall include the plural number and vice versa;
- (c) the headings of this General Terms are inserted for convenience only and are to be ignored in construing the provisions of this General Terms;
- (d) references to Clauses, Schedules, Annexes, Appendices, Exhibits, are unless stated otherwise, reference to Clauses, Schedules, Annexes, Appendices, Exhibits of this General Terms;
- (e) references to any statute, rule, regulation, order, directive shall be construed as references to such statute, rule, regulation, order or directive as respectively amended or re-enacted or as their operation is modified by any other statute, rule, regulation, order or directive;
- (f) all references to Company shall include its successors in title and assigns. All references to the Customer shall include its successors in title and assigns;
- (g) reference to "day" or "days" shall means 24 hours period; and
- (h) no rule of construction or interpretation of contracts shall apply to the disadvantage of Company for the reason that the it is responsible for the preparation of this General Terms or any part of it.

## 3. Term

3.1 This General Terms shall come into force on the Effective Date and shall continue to be in force until terminated in accordance with this General Terms.

3.2 Unless expressly stated otherwise in the Registration Form, each of the Services to be subscribed by Customer shall be subscribed for a minimum period as may be specified in the Registration Form ("Contract Period"). Customer agrees to maintain and keep Customer's account active during the Contract Period, regardless whether or not, the Customer uses the Services. Thereafter, it shall be automatically renewed on a monthly basis ("Renewal Term"), at the prevailing charges and rates imposed by Company, unless terminated by either Party in accordance with the provision of this General Terms.

## 4. Alteration & Modification of Services

4.1 Customer may make request for alternation or modification of the Services at any time and from time to

time during the Term subject to the prevailing charges and rates imposed by Company. For the avoidance of doubt, downgrade of Services shall not be allowed during the Contract Period.

## **5. Licence**

5.1 Where applicable, Company hereby grants Customer a limited, revocable, non-exclusive, non-transferable licence to use its Software during the Term. Customer agrees to adhere to any applicable end user licence agreement relating to the use of the Software.

5.2 Where any part of the Services include provision of third party services and/or Software, Customer acknowledges and agrees that the use of such third party services and/or Software is subject to such third party terms and conditions and Customer shall ensure it complies strictly with the terms and conditions of the third party and does not erode the rights of Company in any circumstances. Customer shall indemnify, defend and hold Company and its Affiliates, officers, directors, employees, contractors agents and assignees from any losses and threatened losses arising from and in connection with, or based on any allegation of (a) any claim from third party resulting the act, omission and/or negligence of Customer, or (b) any other claim arising out of or related to Customer's breach of such third party terms and conditions whether directly or indirectly.

## **6. Company Equipment and Warranty**

6.1 Depending on the Services subscribe by Customer, Company may provide certain Company Equipment. Please refer to Registration Form and/or Specific Terms applicable to that particular Service.

6.2 Customer acknowledges and agrees that the Company Equipment provided may not correspond with the description as advertised prior to or during registration and Company will use its endeavour to provide Company Equipment which has similar feature to those advertised. Customer shall not dispute that the Company Equipment fails to correspond with the description.

6.3 Depending on the Services for which Customer is subscribing, certain Company Equipment may come with warranty against defects in materials and workmanship during the Term. Please refer to the applicable Specific Terms for more details. Warranty does not (a) cover loss, damage or defects caused by any act omission misuse and/or negligence, including usage of Company Equipment contrary to the instructions provided by Company or the manufacturer, or arising from any connection of Company Equipment to third party equipment, or (b) other acts beyond the reasonable control of Company.

6.4 Except as expressly stated otherwise in the Specific Terms, Customer hereby acknowledges and unconditionally agrees:-

(a) that the Company Equipment shall belong to Company and in no circumstances shall ownership pass to Customer;

(b) to keep safely and take proper care of the Company Equipment to ensure it remains in good working condition at all material times,

(c) to use such Company Equipment for the purpose of using the Services only;

(d) not to alter or adapt the Company Equipment in any way, except as expressly authorised by Company;

(e) to inform Company immediately in the event the Company Equipment is malfunction, damage, lost, or stolen;

(f) return the Company Equipment immediately but within seven (7) days from the date of termination;

(g) shall not allow third party to keep, use solely the Company Equipment; and/or Services;

(h) return the Company Equipment to Company immediately upon request by Company.

6.5 Except as expressly stated otherwise in the Specific Terms, Customer acknowledges and agrees that Customer shall pay for Company Equipment Charges in the event Clause 6.4(e) (unless malfunction is not caused by Customer), (f) or (h) applies. Such Company Equipment Charges shall immediately become a debt due and payable by Customer to Company upon the occurrence of any of the event specified in the foregoing paragraph.

## **7. Billings**

7.1 Upon execution of the Registration Form and unless expressly stated otherwise, Customer may be required to certain Charges, as may be specified in the Registration Form and/or Specific Terms.

7.2 In the event Customer is required to pay a Deposit, such Deposit shall be maintained during the Term and shall not without previous consent of Company be deemed to be or treated as payment of the Charges. In the event the Monthly Fee shall be increased, Customer shall pay the additional sum as deposit to Company (being the difference between the Monthly Fee and the increased Monthly Fee).

7.3 Subject to the due observance and performance by Customer of the provisions of the General Terms, upon termination, Company will refund and pay to Customer the Deposit, within the timeframe determined by the Company policy. In the event you have not received any refund from us within ninety (90) days from the date of Termination of Service, please inform us in writing right away. If you fail to give us such written notice within twelve (12) months from the date of Termination of Service for our inadvertent delay or failure to refund you the excess amount, we shall then treat that you waive your right to make any claim against us for such excess amount and we will no longer be liable towards you for payment of refund. Any credit balance amounting to RM10.00 and below will not be refunded to you and we are allowed to absorb the said credit balance as administration fee for the Service provided to you.

7.4 Monthly Fee shall be payable in advance or on such frequency as may be specified in the Registration Form and/or Specific Terms, provided always that the first Monthly Fee may be pro-rated according to the billing cycle of the Company. Customer shall pay promptly to the Company within the Payment Term.

7.5 Customer hereby acknowledges and agrees that its obligation to pay promptly all Charges due and payable shall not be waived, absolved or diminished by virtue of:-

- (a) Customer not receiving any Invoice from Company for any particular billing period;
- (b) Customer's failure or neglect to check, enquire, understand and ascertain the nature of Services subscribed or used by Customer and the applicable Charges associated with such Services; and/or
- (c) none usage of the Services even if the Services is readily made available for Customer's use

7.6 All amounts payable under this General Terms shall be made without any deduction, set-off or counterclaim, save and except in accordance with Clause 8 where there is a dispute of amount and there is a finding by Company that there is manifest error in the invoice.

#### **8. Dispute on Invoice**

8.1 If Customer disputes an invoice issued by Company, Customer shall give to Company within fourteen (14) days from the date of receipt specifying (a) the entry/amount in dispute, (b) the reasons why such entry and/or amount is disputed, and any written records or documentary evidence supporting the dispute.

8.2 Customer irrevocably agrees that in the event Customer fails to give Company any notice in writing disputing the invoice within fourteen (14) days from the date of receipt, then Customer shall be deemed to have accepted the entries specified in the invoice as correct and accurate and such invoice shall be binding and conclusive evidence against Customer of the correctness and accuracy of the entries specified therein and the amount due and owing by Customer to Company in a court of law, save for any manifest error.

8.3 Upon receipt of the written notice, Company would use its reasonable endeavour to resolve the dispute. Company may, in its discretion deems fit, conduct any investigation regarding the disputed amount. The findings of Company shall be final and conclusive and binding on Customer and shall not be questioned by Customer on any account.

8.4 Notwithstanding that Customer is not required to pay the amount in dispute pending resolution of dispute, Customer shall still be liable to pay to Company such portion of the invoice that is not in dispute.

#### **9. Late Payment Charges**

9.1 Company shall be entitled to charge and Customer shall be liable to pay Company late payment charges at the rate of 1.0% per month (before and after judgment) on all overdue Charges calculated on a daily basis, calculated from the day following the due date thereof to the date of actual payment by Customer of the full outstanding amount including accrued interest.

#### **10. Tax**

10.1 All sums payable under the General Terms is exclusive of service taxes, value added or withholding taxes, imposts, duties or charges (the payment of which is the Customer's obligation) and if Customer is required to deduct from any payment hereunder any value added or withholding taxes, service taxes or imposts, duties or charges imposed on the Customer, Company or otherwise howsoever, Customer shall pay to Company such additional sum so as to enable Company to receive in full the payment that would otherwise have been payable to Company.

10.2 If Goods and Services Tax or tax of similar nature ("GST") is required by law to be paid by Customer to the relevant authorities in Malaysia for the goods or services supplied hereunder, Customer shall on demand pay to Company a sum equal to the amount of such GST. In the case where GST is applicable, Customer acknowledges that any sum set out in this General Terms or otherwise payable by the Customer to Company pursuant to this General Terms shall be deemed to be exclusive of any GST.

#### **11. Customer's Warranties & Representations**

11.1 Customer represents and warrants that:-

- (a) it has the full power and authority to enter into and to perform this General Terms;
- (b) the performance of the obligations and duties of this General Terms will not violate any agreement to which the Customer is a party or by which it is otherwise bound;
- (c) it has and shall maintain all licenses, permits, consents, approvals and other statutory requirements (including those required by foreign or international law) applicable to carrying out Customer's business, and complied with all conditions requirements involved in the carrying of such business; and
- (d) all information required by and furnished by Customer to Company in connection with or for the purpose of any of the Services provided hereunder are correct and accurate in every material aspects and are not false, misleading, deceptive, defamatory and/or unlawful and nothing herein shall imply any obligation on the part of Company to verify the accuracy and authenticity of such information.

11.2 Customer hereby covenants and undertakes as follows:-

- (a) to pay all applicable Charges and Late Payment Charges, if any, in accordance with the terms and conditions of this General Terms. Customer shall

continue to be liable for any applicable Charges and fees during the period of interruption, suspension, or loss of services, or part thereof from any cause whatsoever;

(b) to observe perform and comply with this General Terms, law, by-laws, rules, policy, instructions, notices or directions issued by Company and/or any appropriate body, licensor, authority, from time to time;

(c) to check with the applicable, rules, policy, this General Terms made available by Company from time to time and make the necessary enquiries with Company to understand and ascertain the nature of the Services subscribed or used by Customer and the applicable Charges associated with the Services;

(d) not to use or permit the use of the Services for any fraudulent, unlawful illegal, or improper purpose in breach of any laws and regulations (local foreign and international), including but not limited to, harassing, indecency, obscenity, threatening or offensive on moral, religious or political grounds, and defamation, or to violate the rights of Company and/or third parties;

(e) not to attempt to gain unauthorized access to any of Company's Services, platform, Company's customers' personal data, computer systems or networks connected to the network in the provision of Services by Company to Customer, through hacking, password mining or any other means;

(f) to implement sufficient safety, procedures and checkpoints to ensure that Customer's own network, computer system or any equipment used in accessing and/or using our Services shall not be accessed by any third party without being authorised by Customer, hacked, password mining or any other means;

(g) to set-up or configure its own equipment for access to the Services;

(h) to be solely responsible for all information retrieved, stored and/or transmitted by Customer through the use of Service;

(i) to be solely responsible for all data, voice, or other telecommunication transmission through the use of the Services, whether or not such transmission is with or without the knowledge of Customer;

(j) to obtain Company's prior written consent before making any changes to the network configuration and interconnecting the private network to any public network;

(k) shall not allow third party to keep, use solely the Device, Accessory and/or Services;

(l) not to do anything that will compromise or infect any of Company's network or any electronic system with computer virus, bugs or any like elements;

(m) not to infringe of Company's Intellectual Property Rights or any third party intellectual property rights; and

(n) to promptly notify Company of any interruption or disruption of the Services.

## **12. Suspension of Services**

12.1 Company shall be entitled at its absolute discretion to immediately suspend the Services, at any time, without liability, without notice, including but not limited to:-

(a) if any technical failure occurs in the Services;

(b) while Services are being upgraded, modified, and/or maintained;

(c) if Customer breaches any terms and conditions of this General Terms;

(d) there is reasonable suspicion of fraudulent, illegal and/or any other activity by Customer which in Company's sole opinion will damage, injure, compromise and/or prejudice Company and or network operation, reputation and/or business;

(e) if it is in Company's opinion that the Services is or may be used in violation of any acts, statutes, laws, policies, rules and regulations, other instructions, notices and/or directives imposed and/or issued by the appropriate authorities;

(f) if Customer fails to cooperate with any investigation and/or enquiry conducted and/or carried by the appropriate authorities, in respect of any suspected violation or violation of any acts statutes laws, policies and/or rules and regulations;

(g) if Company receives an order, instruction, notice and/or directive from any appropriate authority to do so;

(h) an event of Force Majeure; and/or

(i) any other reasons as Company deems fit.

12.2 Company will endeavour to resume the Services as soon as possible if suspension occurs for reasons set out in Clause 12.1 (a) and (b) above. Customer shall remain liable to pay to Company all applicable Charges during the period of interruption, suspension, or loss of Services, or part thereof, from any cause whatsoever.

12.3 Upon suspension arising from (c), (d), and (f), Company may at its absolute discretion, re-active and re-connect the Services, subject to Customer paying a reconnection fee at a rate to be determined by Company, all outstanding Charges, and/or rectification or remedy of the event of default which result in the suspension of Services.

## **13. Intellectual Property Rights**

13.1 Customer agrees that Company is and shall remain the exclusive owner of its Intellectual Property Rights, and is protected by applicable copyright, trademark, trade secret, patent or other proprietary rights and laws.

13.2 Company does not grant Customer any right to any of its trademarks ("Company Marks") and Company is the owner of Company Marks (whether registered or unregistered) and retains all right, title and interest in and to Company Marks.

## **14. Confidential Information**

14.1 Save and except with the prior written consent of the Company or as otherwise expressly permitted under this Agreement, Customer shall not at any time communicate to any person any confidential information disclosed to Customer for the purpose of the provision of the Service or discovered by Customer in the course of the provision and performance of the Service. Notwithstanding anything to the contrary in this General

Terms, in the event any breach of this Clause, Company shall be entitled to any remedies available at law and/or in equity.

#### **15. Data Protection**

15.1 Customer consents to the use and processing of all of Customer's Personal Data in accordance with the Company's Privacy Statement.

15.2 If Customer provides the Company with Personal Data of any other person in connection with the Services, the Customer warrants that the Customer has obtained the consent of such other person to disclose the Personal Data to the Company and to process such Personal Data in accordance with the terms of the Privacy Statement. The Customer further agrees that the Customer shall inform such person of the terms and conditions of this Agreement.

#### **16. Indemnities by Customer**

16.1 Customer shall indemnify and hold Company its Affiliates, officers, directors, employees, contractors agents and assignees (collectively "Indemnified Parties") harmless from and against any and all claims including and without limitation:-

- (a) any and all claims, demands costs, expenses, losses, liabilities or damages (including but not limited to, legal fees on a solicitor and client basis, costs of investigation and cost of suit), of whatever kind or character, on account of any actual or alleged loss, injury or damage to any any person, firm or corporation or to any property, (collectively "Claims"), arising from or in connection with the use of the Services by Customer, and/or provision of the Services by Company;
- (b) any Claims for libel, slander, invasion of privacy, or infringement of intellectual property, copyright, trademark, patent or other contractual or proprietary right, or any other tortious injury arising from the use and/or provision of the Services;
- (c) any Claims, whether civil or criminal, which Company may suffer as a result or arising from the provision of the Services; and/or
- (d) any Claims, fine, penalty or consequences arising from the breach of any laws or regulations, including but not limited to censorship, data protection laws as well as breach on the part of Customer of any warranties, covenants, obligations and undertaking given by Customer to any relevant government or quasi-government authority relating to the use of the Services; and/or
- (e) any breach of the terms and conditions of this General Terms by Customer.

16.2 In the event Company shall institute legal action against Customer, Customer shall be liable to indemnify and pay all legal costs and disbursements on a solicitor and client basis. Customer hereby agrees that any dispute in relation to the quality of the Services shall not be used as a ground or basis for the delay or non-payment of the

outstanding Charges and/or other monies payable pursuant hereto.

#### **17. Limitation of Liabilities and Disclaimer**

17.1 Neither Company nor its Affiliate shall in any event incur any liability whatsoever for any reasons whatsoever, including but not limited to:-

- (a) any interruption and/or suspension in the provision of Services by Company;
- (b) an event of Force Majeure as provided in Clause 21.3;
- (c) compliance by Company and/or its Affiliate with law, by-law, guidelines, rules, policy, court order, instructions, notices and/or directions, or any non-compliance thereof which may affect the provision of Services hereunder; and/or
- (d) any unauthorised access to Customer's data, network, or system, howsoever arising, even if such unauthorised access is caused by any act, omission and/or negligence of the Company.

17.2 Company shall not be responsible for all death, personal injury, mishap, and/or damages suffered and/or sustained by Customer, its servant, agent, contractor and/or representative.

17.3 Company shall not be liable to Customer for any loss of revenue, loss of profit, contracts, customers, goodwill or anticipated savings or profits, wasted expenditure, business interruption or any direct indirect consequential incidental special punitive or exemplary losses and/or damages whatsoever suffered incurred and/or sustained by Customer due to the breach of this General Terms, suspension, interruption, expiration or termination of this General Terms, act omission and/or negligence of Company, whether such liability is asserted on the basis of contract, tort (including negligence or strict liability) or otherwise, even if Customer has been advised of the possibility of such damages.

17.4 Company does not exercise control over the content of information passing through its Services. Company does not warrant that the Services provided hereunder will be uninterrupted, error-free, or completely secure.

17.5 Company does not make any representations or warranties of any kind, whether oral or written, whether express, implied, or arising by statute, custom, course of dealing or trade usage, with respect to the provision of Services or subject matter hereof, in connection with this General Terms. Company specifically disclaim any and all implied warranties or conditions of title, merchantability, fitness for a particular purpose, and non-infringement. Except as expressly set out in this General Terms, all Services are made available on an "as-is" basis and Customer uses on its own risk.

#### **18. Credit Rating**

18.1 When Customer applies for Services, the Customer agrees that as part of the application process

the Company can check the Customer's Credit Rating through a Credit Reporting Agency or through the BCI Database. The Company can conduct further credit checks on the Customer while the Customer remains a subscriber with the Company. The Customer understands that a credit inquiry could adversely affect the Customer's Credit Rating. Subject to any legal requirements under the Personal Data Protection Act to disclose personal data to the Customer, the Company does not have to disclose the Company's credit criteria or the reasons of the Company's decision to the Customer (regardless whether or not it relates to declining the Customer's application, providing a restricted Services to the Customer, or otherwise). If the Customer is not satisfied with the information provided by the Credit Reporting Agency or BCI Database service provider, the Customer will need to contact such service provider directly. The Customer is aware and agrees that the Company may report the Customer's payment record to any Credit-Reporting Agency and the BCI Database service provider at any time.

#### **19. Termination**

19.1 In the event Customer shall unilaterally terminate this General Terms prior to expiry of the Contract Period, Customer agrees that it shall be liable to pay Company the Early Termination Penalty at the prevailing rate imposed and determined by Company from time to time.

19.2 Unless expressly stated otherwise in the Specific Terms, Customer may terminate this General Terms after the Contract Period by giving Company thirty (30) day notice in writing.

19.3 Unless expressly stated otherwise in the Specific Terms, Company may terminate this General Terms at any time by giving seven (7) day notice without any cause without any liability.

19.4 Company may forthwith terminate this General Terms if:-

- (a) Customer shall breach any terms or conditions of this General Terms and fail to rectify and remedy such breach within fourteen (14) days from the date of its receipt of a written notice requiring it so to do;
- (b) change of law, by-laws, regulations, guidelines, rules, policy, instructions, notices and/or directions imposed/issued by the appropriate authority;
- (c) if the circumstances under Clause 12 is prolonged and Company deems necessary in its sole discretion and opinion to terminate the General Terms;
- (d) Customer shall commit an act of bankruptcy or suffer the presentation of a petition for liquidation or winding-up as the case may be;
- (e) Customer shall make any arrangement for the benefit of or enter into any arrangement or composition agreement with its creditors; or
- (f) Customer shall permit or suffer any execution proceedings levied on any of its properties, premises, goods, fixtures, fittings, equipment, chattels and effects.

19.5 Upon the expiration or termination of this General Terms:-

- (a) Company shall forthwith cease to provide Services;
- (b) Customer shall forthwith pay all outstanding unpaid Charges, Late Payment Charges and/or other monies payable to Company, failing which, Company shall be entitled to institute legal action against Customer for the recovery of the outstanding unpaid Charges and/or other monies payable by Customer hereunder; and
- (c) return Device and Accessory (where applicable) to Company immediately but within seven (7) day from the date of termination or upon request by Company, whichever earlier.

19.6 Subject to Clause 7.3, in the event there is any excess payment after deducting all outstanding unpaid Charges and/or other monies payable by Customer, the excess payment will be refunded to Customer within the timeframe determined by the Company policy. Customer shall provide the necessary details to Company for purposes of refund. Customer understands that the failure to provide Company with the necessary details or other information may have the inadvertent result of payment being made at a period beyond ninety (90) days and in such instance the Customer acknowledges and agrees that Company shall not be held liable for any late payment of refund.

19.7 Clauses 11, 13, 14, 15, 16, 17, 18, 19, 20 and 21 shall survive the expiry or termination of this General Terms.

#### **20. Conclusive Evidence**

20.1 Any admission or acknowledgement in writing by Customer or any person authorised by Customer of the amount of indebtedness to Company and any judgment recovered by Company against Customer of such indebtedness shall be binding and conclusive in all courts of law in Malaysia and elsewhere.

20.2 Customer expressly and irrevocably agrees that a certificate of indebtedness issued by Company's officer shall be conclusive and binding evidence as to the amount for the time being due and owing by Customer to Company and it shall be conclusive evidence against Customer in any legal proceedings.

#### **21 General Provisions**

21.1 Notice. Any notice, demand or other communication shall be served by either party upon the other party either by electronic email, delivered by hand, courier and/or prepaid ordinary post or registered post (not being AR Registered), facsimile to the address of the other party as set out in the General Terms or to other party's last known address in either party's record.

Notices, demand or other communication shall be deemed effective:-

**WiMAX GENERAL TERMS AND CONDITIONS**  
webe digital sdn bhd (571389-H)  
("GENERAL TERMS")

- (a) If by electronic email or hand deliver, on the day of delivery;
- (b) If by prepaid ordinary post or by registered post, five (5) days after it was duly posted;
- (c) If by courier, 1 day after dispatch; or
- (d) If by facsimile, on the day of transmission provided that the transmission report from the sender's facsimile machine confirms that transmission is in full and without error.

A copy of any notice and/or demand shall be copied to the Company's Legal Department at the following address:-

Head of Legal  
webe digital sdn bhd  
Level 8  
159 Jalan Templer  
46050 Petaling Jaya  
Selangor

Customer hereby agree that in the event that any action is begun in the courts in Malaysia in respect of this General Terms, the legal process and other documents may be served by posting the documents to the Customer by registered post (not being AR Registered Post) at the address set out in this General Terms or to the Customer's last known address in Company's records and such service shall on the fifth (5) day after posting, be deemed to be good and sufficient services of such legal process or documents.

21.2 No Partnership. Company and Customer are independent contractors and this General Terms will not establish any relationship of partnership, joint venture, employment, franchise or agency between Company and Customer. Neither Company nor Customer have the power to bind the other or incur obligations on the other's behalf without the other party's prior written consent, except as otherwise expressly provided herein.

21.3 Force Majeure. Company shall not be liable to the Customer for any delay, failure, suspension or interference in the provision of Services caused by circumstances beyond its reasonable control such as, but not limited to labour disputes, fire, flood, other casualties, weather or natural disaster, damage to facilities, breakdown in equipment, communication link failure, commercial power failure, war, civil disturbance, order of a government ministry or department or public authority, royal demise, lock-out, withdrawal of services or supplies or other services or transport (public or otherwise) or conduct of third party.

Upon the happening of any of the events above the obligations of Company and any period of time then running shall be suspended for the period of the event in addition to such amount of time as may be required to resume normality.

Without prejudice to the foregoing paragraph, if any of the events above results in Company's Services being restricted, curtailed or prevented, Company may at any time, notwithstanding anything in these terms contained, forthwith terminate the General Terms. In such circumstances, Customer shall not be excused from paying all the Charges and other monies due and owing by Customer as at the time of such termination.

21.4 Waiver. Failure or neglect of Company in any instance to exercise its right, power, privilege hereunder or under law shall not constitute a waiver of any right arising from, pursuant or under this General Terms. All waivers by Company must be in writing signed by the Chief Financial Officer.

21.5 Assignment. Customer shall not assign transfer or novate the General Terms to any third party. Company may assign, transfer or novate the General Terms to its Affiliate or any third party without notice to Customer. This General Terms shall inure to the benefit of the permitted assigns and successors of Company and Customer.

21.6 Severability. In the event any provision of this General Terms is held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not, in any way, be affected or impaired hereby.

21.7 This General Terms is made under and shall be governed by and construed in accordance with the laws of Malaysia without regard to principles of conflicts of law and the Customer hereby irrevocably agrees to (a) submit to the exclusive jurisdiction of the Malaysian Courts and (b) waive any objections on the ground of venue or forum non-conveniens or any similar grounds.

21.8 Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. Where signature is required, the document or General Terms may be executed in multiple counterparts, each of which shall be deemed to constitute an original but all of which together shall constitute only one document.

21.9 If this General Terms or any part thereof is translated into any other languages and there is any conflict between this English version and any foreign language version of this General Terms, the English version shall prevail.

21.10 Customer shall bear the cost of stamp duty.

21.11 Customer acknowledges that it has been given and has had the opportunity to seek advice from independent legal counsel in relation to all the matters set out in this General Terms and in the General Terms and confirms that any failure on the part of the Customer to appoint, or election not to appoint legal counsel shall



not be raised as a defence in any dispute, and the Client is not entitled to rely and shall not rely on any advice given by Company, under and in relation to this General Terms.

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A. **Specific Terms and Conditions.** Together with the General Terms, these Specific Terms and Conditions (including any additional attachments, appendices, annexes, and exhibits, if any, will be deemed an integral part hereof for all purposes) ("Specific Terms") and incorporated into the General Terms. Unless expressly defined otherwise, all words, abbreviations and expressions shall have the same meaning given in the General Terms. In the event of any inconsistency between the terms and conditions of the General Terms and the Specific Terms, the terms and conditions of the Specific Terms shall take precedence to the extent of such inconsistency only.

**B. Specific Terms on 4G Services**

1. **Cooling-Off Period.** This Specific Term is subject to the Cooling-Off Period. During this Cooling-Off Period, Customer will be allowed to use the Services and reconsider its decision whether or not to subscribe the Services. In the event the Customer wishes to terminate the Agreement with Company, Customer must give such termination notice in writing to Company on or before the expiry of the Cooling-Off Period and such termination shall not attract any Early Termination Penalty. Customer understands and agree that Early Termination Penalty will be applicable if the Agreement with Company is terminated immediately after the expiry Cooling-Off Period. The Cooling-Off Period is only applicable to the Customer who has no previous dealings with the Company. **The Cooling-Off Period is only applicable to the Customer who has no previous dealings with the Company and a Customer who has subscribed to the Company's Service in the past but has never done any termination under the Cooling-Off Period policy in the last 6 months.** Upon termination, Customer shall return all the Company Equipment provided by the Company to Customer for its use immediately but within seven (7) days from the date of termination. For the purposes of this Specific Terms, "Cooling-Off Period" means the period of seven (7) days from the Effective Date.

2. **Term.** In the event the Customer accepts a new Service Package before, on, or upon expiry of the Contract Period, Customer understands and agrees that a new Contract Period will apply and the terms and conditions of the General Terms will apply mutatis mutandis. For the purposes of this Specific Terms, "**Service Package**" collectively means the different packages, plans, or promotion within a Service Package that the Company offers to Customer, such as, OnePlan, ForHome, ToGo, HomeVoice and/or Quota Top.

3. **Company Equipment and Warranty.** Device comes with warranty against defects in materials and workmanship during the Term. Accessory comes with

three (3) months warranty against defects in materials and workmanship from the Effective Date.

**C. Specific Terms on BizVoice Services**

1. **Company Equipment.** Depending on the plan subscribed by Subscriber, the device provided will vary:-

(a) \*BizVoice Hosted - VoIP phone (rental basis, warranty against defects in materials and workmanship during the Term);

(b) \*BizVoice Basic – Optional Analogue Telephone Adaptor (outright purchase of Device is covered by 1-year warranty against defects in materials and workmanship, Rental of Device is covered with warranty against defects in materials and workmanship during the Term);

(c) \*BizVoice Basic – Media gateway (on a rental basis, warranty against defects in materials and workmanship during the Term);

(d) \*BizVoice ASP – Auto Dialer (rental basis warranty against defects in materials and workmanship during the Term).

2. **Billing.** Company shall bill Customer for the Monthly Fee in arrears, provided always that the first Monthly Fee may be pro-rated according to the billing cycle of Company. Customer shall pay the Charges in full within the Payment Term.